

DOCUMENT RESUME

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Relocation Expenses. B-188083. June 27, 1977. 4 pp.

Decision re: Roger A. Nichols; by Robert F. Kaller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Federal Aviation Administration.

Authority: 5 U.S.C. 5584. F.T.R. (FPMR 101-7), para. 2-1.5b(1). B-174145 (1971). B-179907 (1974). DOT Order 1500.6, para. 321.

An employee of the Federal Aviation Administration claimed reimbursement of relocation expenses incurred in connection with a permanent change of duty station. The new residence was only 4 miles from the old residence and the relocation shortened the employee's commuting distance to the new duty station by only 1.4 miles. The relocation was not incident to the change of station, and the employee's claim may not be paid. (Author/SC)

Peter Iannicelli
Civ. Pers.

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-182083

DATE: June 27, 1977

MATTER OF: Roger A. Nichols - Relocation expenses

DIGEST: Employee who transferred to new official duty station claims relocation expenses. New residence was only 4 miles from old residence, and relocation shortened employee's commuting distance to new duty station by only 1.4 miles. Although change of station was in interest of Government, it does not necessarily follow that relocation of residence was incident to transfer. Agency properly found that relocation was not incident to change of station. Accordingly, employee's claim may not be paid.

This decision concerns the question of whether Mr. Roger A. Nichols, an employee of the Federal Aviation Administration, Western Region, is entitled to reimbursement of relocation expenses incurred in connection with a permanent change of duty station.

Mr. Nichols was transferred from El Toro, California, to Long Beach, California, in July 1974. The selection letter, dated June 19, 1974, which notified his supervisor that Mr. Nichols had been selected for the position at Long Beach Tower, stated "No move involved." Accordingly, no travel orders were issued at that time and the reassignment was documented by a SF 50, Notification of Personnel Action, dated July 5, 1974. Later, however, Mr. Nichols decided to move his residence and Travel Order No. 4-2852-008 was issued December 9, 1974, to Mr. Nichols. In connection with the change of official duty station, Mr. Nichols was authorized to travel and to be reimbursed for necessary expenses as provided in the DOT Travel Manual. During January, 1975, the claimant moved his household goods from Tustin, California, to Orange, California, utilizing Government Bill of Lading No. K-0870154. The FAA paid \$608.11 to Pacific Van and Storage Company in connection with this move. Subsequently, the FAA determined that the relocation was not incident to the transfer and that the payment of moving expenses was, therefore, improper. On March 27, 1975, the FAA issued a Bill of Collection to Mr. Nichols in the amount of \$608.11, payable within 30 days. When the employee did not respond to the Bill of Collection, the FAA deducted \$608.11 from his salary to satisfy the debt.

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On May 1, 1975, Mr. Nichols submitted a claim for reimbursement of expenses in connection with the sale in January 1975, of his old residence at Tustin, California, and the purchase in February 1975, of a new one in Orange, California. The total amount claimed was \$4,808.36. Reimbursement to Mr. Nichols was disallowed by FAA on the basis that the real estate expenses claimed were not incurred incident to the transfer.

According to the FAA's administrative report, the determination that the relocation expenses were not incurred incident to the transfer was based upon the DOT Travel Manual (FAA Order 1500.14) and the following facts:

(1) Distance from the old residence to the old duty station equals 7.1 miles.

(2) Distance from the old residence to the new duty station equals 24.7 miles.

(3) Distance from the old residence to the new residence equals 4 miles.

(4) Distance from the new residence to the new duty station equals 23.3 miles.

(5) Difference in driving distance to the new duty station resulting from his move equals 1.4 miles (24.7 miles less 23.3 miles).

Mr. Nichols' representative argues that the employee is entitled to reimbursement of his relocation expenses because, "Mr. Nichols was issued travel orders and a government bill of lading which bound him upon receipt. These same orders bound the Federal Aviation Administration upon issuance." The representative also contends that the employee's commuting time was reduced by 30% or more which meets the criteria in FAA Order 1500.14.

We point out that the travel orders authorized Mr. Nichols to perform travel and to be reimbursed necessary expenses only as provided in the Department of Transportation (DOT) Travel Manual. Moreover, an employee's travel and reimbursement therefor may only be performed in accordance with applicable law and regulations.

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See B-174145, November 15, 1971. The authority to waive repayment of erroneous payments made to an employee under 5 U.S.C. § 5584 is expressly inapplicable to travel and relocation expenses and allowances.

In connection with short-distance transfers, paragraph 2-1.5b(1) of the Federal Travel Regulations (FPMR 101-7, May 1973) provides:

"(1) Transfers. When the change of official station involves a short distance within the same general local or metropolitan area, the travel and transportation expenses and applicable allowances in connection with the employee's relocation of his residence shall be authorized only when the agency determines that the relocation was incident to the change of official station. Such determination shall take into consideration such factors as commuting time and distance between the employee's residence at the time of notification of transfer and his old and new posts of duty as well as the commuting time and distance between a proposed new residence and the new post of duty. Ordinarily, a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station. Even then, circumstances surrounding a particular case (e.g., relative commuting time) may suggest that the move of residence was not incident to the change of official station." (Emphasis added.)

The DOT Travel Manual contains substantially the same provision. DOT Order 1500.6, para. 321 (August 2, 1972).

With respect to relatively short distance relocations, paragraph 2-1.5b(1) of the FTR, quoted above, does not establish fixed rules to be applied in all cases involving transfers between official stations which are relatively close to each other. Rather, the regulation gives the agency broad authority within which it must determine whether the employee's move from one residence to another is in fact incident to the change of official station. See Matter of James A. Grant, B-179907, June 7, 1974. Even if a change of


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station is authorized as in the interest of the Government, it does not necessarily follow that the relocation of the employee's residence is incident to the change of station.

In the present case, the FAA has determined that the relocation was not incident to the change of official station. In making that determination, the FAA considered, among other things, Mr. Nichols' commuting distance as required by the above-cited regulations. On the record before us, it cannot be said that the administrative decision was arbitrary, capricious, or an abuse of discretion. This is especially so because the distance between the old and new residences is only 4 miles and because the employee's commuting distance has only been diminished by 1.4 miles.

In view of the above reasoning, the claim of Mr. Roger Nichols for relocation expenses in the amount of \$4,808.36 may not be paid. We also find that the collection action to recover the \$608.11 in expenses for moving Mr. Nichols' household goods was proper since those expenses were improperly reimbursed in the original instance.

Deputy


Comptroller General
of the United States